

ORIGINAL

IN THE UNITED STATES DISTRICT  
FOR THE NORTHERN DISTRICT OF  
DALLAS DIVISION

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**  
COURT OF TEXAS  
CLERK, U.S. DISTRICT COURT  
By \_\_\_\_\_ Deputy \_\_\_\_\_  
AUG 31 2000

JELD-WEN, inc., )  
                        )  
                        )  
Plaintiff,         )  
                        )  
v.                    )  
                        )  
DOORCRAFT, INC.,    )  
SECURE AMERICA, INC., and  
PERFECT BUSINESS  
SERVICES, INC.,     )  
                        )  
Defendants.         )

Civil Action No. 3-00-CV-1922-L

ORIGINAL COMPLAINT  
AND JURY DEMAND

Plaintiff JELD-WEN, inc. ("JELD-WEN") for its complaint against Defendants Doorcraft, Inc., Secure America, Inc. and Perfect Business Services, Inc., alleges and states as follows:

PARTIES

1. Plaintiff JELD-WEN, Inc. is a corporation duly organized under the laws of the State of Oregon engaged in a number of businesses, one of which is the business of manufacturing and selling doors and windows. Plaintiff's headquarters and principal place of business is located at

3250 Lakeport Boulevard, Post Office Box 1329, Klamath Falls, Oregon 97601.

2. Upon information and belief defendant Doorcraft, Inc. (hereinafter "Doorcraft") is a South African corporation with its principal place of business at 343, Prestige St., Ekandustria, P.O. Box 190, Bronkhorstspruit 1020, South Africa.

3. Upon information and belief defendant Secure America, Inc. (hereinafter "Secure America") is a Michigan corporation with its principal place of business at P.O. Box 2186, Holland, Michigan 49422-2186.

4. Upon information and belief defendant Perfect Business Services, Inc. (hereinafter "Perfect Business") is a Texas corporation with its principal place of business at 100 N. Central Expressway, Suite 500, Richardson, Texas 75080.

**JURISDICTION AND VENUE**

5. This case arises under the trademark laws of the United States, 15 U.S.C. §§ 1051-1127, and the common law of the State of Texas. This court has original jurisdiction of the subject matter of this action pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331 and 1338, and the principles of supplemental jurisdiction set out in 28 U.S.C. § 1337.

6. Venue is proper in this district pursuant to 28 U.S.C. § 1331(b), (c) and (d).

**FACTUAL ALLEGATIONS**

7. Plaintiff is the owner of the trademark DOORCRAFT and the owner by assignment of U.S. Trademark Registration No. 1,384,294 granted on February 25, 1986 for DOOR CRAFT for doors in Class 19. A copy of plaintiff's federal trademark registration is attached as Exhibit 1.

8. The aforesaid registration for the mark DOOR CRAFT is valid and subsisting, and, pursuant to 15 U.S.C. § 1057(b), is *prima facie* evidence of plaintiff's exclusive right to use the mark on the goods for which the mark was registered. Pursuant to 15 U.S.C. § 1065, Registration No. 1,384,294 has become incontestable. Defendants have constructive knowledge of plaintiff's right to use the mark pursuant to 15 U.S.C. § 1072.

9. Plaintiff uses, and has used for many years, the mark DOORCRAFT on labels affixed to doors and on advertisements and catalogs promoting its DOORCRAFT line of doors. Plaintiff's mark DOORCRAFT is distinctive. Plaintiff's use of the mark DOORCRAFT is widespread throughout the United States as evidenced by substantial sales and

advertising, and the mark represents an important part of the goodwill associated with plaintiff's business.

10. Upon information and belief, defendant Doorcraft is engaged in exporting doors under the trademark DOORCRAFT into this district and elsewhere in the United States and selling and advertising doors under the trademark DOORCRAFT in this district and elsewhere in the United States. Photocopies of some of defendants' advertisements are attached as Exhibit 2.

11. Upon information and belief, defendant Perfect Business is engaged in importing, selling and advertising doors under the trademark DOORCRAFT in this district and elsewhere in the United States. Photocopies of some of defendants' advertisements are attached as Exhibit 2.

12. Upon information and belief, defendant Secure America has contracted with Perfect Business to distribute doors under the trademark DOORCRAFT and is doing business in this district pursuant to the Long Arm Statute of the State of Texas, Tex. Civ. Prac. & Rem. Code § 17.041 et seq.

13. On December 21, 1999, defendants were notified in writing of plaintiff's rights in the DOORCRAFT trademark. The acts of defendants described herein have been willful, wanton

and carried out in deliberate disregard of plaintiff's rights in the DOORCRAFT trademark.

**FIRST CLAIM**  
**(Trademark Infringement)**

14. Paragraphs 1 through 13 are realleged and reincorporated herein by reference.

15. This claim arises under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

16. Defendants' sales of doors under the trademark DOORCRAFT and use of advertisements displaying the mark DOORCRAFT have caused or are likely to cause confusion with plaintiff's registered trademark DOORCRAFT and plaintiff has been and will continue to be damaged thereby.

**SECOND CLAIM**  
**(Unfair Competition - Passing Off)**

17. Paragraphs 1 through 16 are realleged and incorporated herein by reference.

18. This claim arises under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

19. Defendants' imitation of plaintiff's mark DOORCRAFT amounts to misappropriation of plaintiff's mark, passing off, false designation of origin and/or false description of goods and services and has caused or is likely

to cause confusion or to deceive the public about the affiliation, connection or association between plaintiff and defendants or about the origin, sponsorship or approval of defendants' goods and services and plaintiff has been and will continue to be damaged thereby.

**THIRD CLAIM**  
**(Common Law Unfair Competition)**

20. Paragraphs 1 through 19 are realleged and incorporated herein by reference.

21. This claim arises under the common law of the State of Texas.

22. Plaintiff sells and advertises doors under the trademark DOORCRAFT in this district and elsewhere in the State of Texas.

23. By using, marketing, promoting, advertising, importing, distributing and/or selling doors under the mark DOORCRAFT in the State of Texas, defendants Doorcraft and Perfect Business have caused or are likely to cause confusion among consumers of doors as to the source or sponsorship of defendants' doors, and plaintiff has been and will continue to be damaged thereby.

WHEREFORE, plaintiff prays for judgment in its favor and against defendants as follows:

A. For an order preliminarily and permanently enjoining defendants, their employees, agents, officers, successors and assigns, and all those acting in concert or participation with defendants from infringing plaintiff's trademark DOORCRAFT, and from manufacturing, importing, distributing, selling, offering for sale, holding for sale, or advertising under the trademark DOORCRAFT any doors or related products, and from using advertising materials bearing plaintiff's DOORCRAFT mark;

B. For an order preliminarily and permanently enjoining defendants, their employees, agents, officers, successors and assigns, and all those acting in concert or participation with defendants from unfairly competing with plaintiff by using plaintiff's trademark DOORCRAFT, and from manufacturing, importing, distributing, selling, offering for sale, holding for sale, or advertising under the trademark DOORCRAFT any doors or related products, and from using advertising materials bearing plaintiff's DOORCRAFT mark;

C. For an order of seizure and destruction of all materials in defendants' possession which bear the DOORCRAFT mark, pursuant to 15 U.S.C. § 1118.

D. For an order that this is an exceptional case and an award of plaintiff's reasonable attorneys fees, pursuant to 15 U.S.C. § 1117(a);

E. For plaintiff's costs and disbursements incurred herein; and

F. For such other relief as the court deems just and equitable under the circumstances.

JURY DEMAND

Plaintiff hereby requests a jury trial on all issues triable to a jury.

Dated this 31<sup>st</sup> day of August, 2000.

Respectfully submitted,



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